

IN THE CLAIMS

Please amend the claims as follows:

1. (Currently amended) A method of transmitting data comprising the steps of:

determining a first data rate based on a measured first channel condition at a receiver to which data transmission is intended;

performing a first data transmission at the first data rate;

receiving a rate indication message indicating either a channel condition measurement at a receiver or a data rate based on a channel condition measurement at a receiver;

determining a second data rate based on ~~an attribute of data for transmission to the receiver~~ ~~the received rate indication message~~; and

performing a second data transmission of the data at the second data rate, wherein the second data transmission is a re-transmission of the first data transmission.

2. (original) The method of claim 1, wherein the first and second data transmissions are identical.

3. (original) The method of claim 1, wherein the first data transmission may be soft combined with the second data transmission.

4. (original) The method of claim 1 comprising the additional step of: receiving, prior to the step of determining the first data rate, a rate indication message indicating the first data rate for the receiver.

5. (original) The method of claim 1 comprising the additional step of: receiving, after the step of determining the first data rate and prior to the step of determining the second data rate, a rate indication message indicating the second data rate for the receiver.

6.(original) The method of claim 1, wherein the first data rate is a higher data rate than a data rate indicated in a received rate indication message.

7.(original) The method of claim 1, wherein the second data rate is a higher data rate than a data rate indicated in a received rate indication message.

8. (original) The method of claim 1 comprising the additional step of: receiving, prior to the step of determining the first data rate, a plurality of rate indication messages indicating the data rates for a plurality of receivers.

9.(original) The method of claim 8 comprising the additional step of: selecting a receiver from the plurality of receivers to which to transmit data using the received plurality of rate indication messages.

10. (original) The method of claim 9, wherein the selected receiver is a receiver associated with a rate indication message indicating a highest data rate.

11.(currently amended) A method of receiving a data transmission comprising the steps of:

receiving at a receiver a first data transmission at a first data rate, wherein the first data rate is determined using a measured first channel condition; and

transmitting a rate indication message ~~indicating a measured second channel condition~~ if the first data transmission was not successfully received at the receiver, wherein the rate indication message indicates either a channel condition measurement at the receiver or a data rate based on a channel condition measurement at the receiver; and

receiving a second data transmission at a second data rate, wherein the second data rate is based on the rate indication message ~~an attribute of data for transmission to the receiver~~.

12.(original) The method of claim 11 comprising the additional step of: storing the received first data transmission if the first data transmission was not successfully received at the receiver.

13.(original) The method of claim 12 comprising the additional step of: soft combining the stored received first data transmission with the received second data transmission.

14-20. (canceled)